

In Title 3, California Code of Regulations, Division 4, Chapter 8, adopt:

Article 2. Regulations for Industrial Hemp Cultivation

§ 4935 Planting Report for Industrial Hemp

- (a) In order to confirm that industrial hemp was planted at a registered cultivation site, registrants shall submit a signed planting report to the commissioner within 72 hours following the completion of the planting. A separate planting report shall be completed for each planting occurrence. The planting report shall include the:
- (1) registrant's registration number,
 - (2) name and contact information of the registrant,
 - (3) planting date(s),
 - (4) name(s) of the cultivar(s) and the quantity planted,
 - (5) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the planting, and
 - (6) planned growing period for the planting.
- (b) The Department shall make a template of a planting report form available online on the Department's website.
- (c) The commissioner may confirm the planting of the crop by conducting field inspections.

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Sections 81006, Food and Agricultural Code

§ 4940 Sampling Timeframe and Pre-Harvest Notification for Industrial Hemp

- (a) Sampling Timeframe.
- (1) Sampling shall occur no more than 30 calendar days before harvest.
 - (2) Any changes to the harvest date may require additional testing-sampling for THC ~~content~~ concentration prior to harvest.
- (b) Sampling Request and Pre-Harvest Report.
- (1) In order to request sampling, registrants shall submit a signed pre-harvest report to the commissioner at least 30-45 calendar days before harvest to initiate the sampling process. A separate pre-harvest report shall be completed for each planting to be harvested. The pre-harvest report shall include the:
 - (A) registrant's registration number,
 - (B) name and contact information of the registrant,
 - (C) anticipated harvest date(s),
 - (D) name(s) of the ~~seed~~-cultivar(s) to be harvested,
 - (E) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the ~~crop~~, planting to be harvested, and
 - (F) ~~Name~~ name and contact information of the laboratory to conduct the testing for THC ~~content~~ concentration.
 - (2) The pre-harvest report shall be accompanied by a sample analysis request form for each composite sample to be taken. The sample analysis request form shall be used to record the:
 - (A) name, contact information, and signature of the sample analysis requester,
 - (B) registration number,
 - (C) name and contact information of the commissioner,
 - (D) physical address, general description of the planting location, and total acreage or square footage of the planting sampled,

- (E) name of the cultivar sampled.
 - (F) unique sample identification number for the composite sample.
 - (G) number of the primary samples taken.
 - (H) date and time of the sample collection.
 - (I) name and signature of the sampler.
 - (J) name and contact information of the approved laboratory conducting the THC testing.
 - (K) name and signature of the person testing the sample.
 - (L) date and time of the sample testing.
 - (M) testing instrumentation used to analyze the sample for THC concentration.
 - (N) laboratory determination of THC concentration in accordance with Section 4942(c) and limit of detection (LOD), and
 - (O) chain of custody information including the name and signature of the person who received and delivered the sample, and the date, time, and location of each possession or transfer of the sample.
- (3) The Department shall make a template of a pre-harvest report and sample analysis request form available online on the Department's website.
 - (4) ~~(2)~~ The commissioner, or a third-party sampler designated by the commissioner, shall schedule a sampling date within 30 calendar days of the anticipated harvest date, but no later than 11 calendar days prior to the anticipated harvest start date listed on the pre-harvest report.
 - (5) ~~(3)~~ Registrants shall notify the commissioner of any changes to the above information no less than ~~5~~ five calendar days prior to the scheduled sampling date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
 Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4941 Sampling Procedures for Testing Industrial Hemp for THC ~~Content~~ Concentration

(a) Collection of Samples.

- (1) Samples for THC testing shall be collected by the commissioner, or a third-party sampler designated by the commissioner.
- (2) The commissioner, or designated sampler, shall verify that the ~~sample collection site~~ planting to be sampled corresponds to the registered ~~location~~ cultivation site using ~~GPS~~ the physical address, Global Positioning System coordinates, general description, and total acreage or square footage provided on the pre-harvest report and registration application, prior to the collection of the samples.
- (3) The registrant ~~shall~~ must be present to observe the collection of samples and allow the commissioner, or designated sampler, access to all industrial hemp plants within the registered ~~land area~~ cultivation site and all areas and facilities used for cultivation.

(b) Sample Volume and Composition

- (1) Each primary sample shall be collected from a single plant. Each primary sample shall include all parts of the plant present, including (stems, stalks, flowers, leaves, seeds, and buds) from as follows:
 - (A) If two or more lateral branches are present, the terminal 18 inches of the top lateral branch and terminal 18 inches of one lateral branch from the lower one-third of the plant. If any branch is less than 18 inches, the whole branch shall be taken.

- (B) If two lateral branches are not present, the terminal 18 inches from the terminal bud at the top of the plant. If the plant is less than 18 inches tall, the whole plant above ground shall be taken.
 - (2) A composite sample shall consist of at least five primary samples from different plants.
 - (3) A separate composite sample shall be taken for:
 - (A) ~~Each~~ each cultivar within each ~~contiguous field~~ registered cultivation site, and
 - (B) ~~Indoor~~ indoor and outdoor growing areas shall be treated as separate fields cultivation sites.
 - (4) ~~When feasible, the commissioner, or designated sampler, should not collect samples within 10 feet of field edges.~~
- (c) Handling of Samples.
- (1) All plant material collected for a composite sample shall be placed together in a permeable bag, and kept in a manner not conducive to mold growth.
 - (2) The bag containing the composite sample shall be sealed and labeled in a manner to detect tampering and ensure chain of custody. Sample labels shall be signed by both the registrant and the commissioner or designated sampler.
 - (3) Samples shall be labeled with a unique sample identification number as assigned on the sample analysis request form and accompanied by the following documentation:
 - (A) ~~The~~ registrant's proof of registration,
 - (B) ~~The~~ pre-harvest report,
 - (C) ~~Seed~~ seed certification documentation for ~~the seed~~ each certified cultivar used,
 - (D) ~~The~~ THC testing report for each certified ~~seed~~ cultivar used, and
 - (E) ~~A~~ sample analysis request form with chain of custody information provided by the testing laboratory containing information outlined in Sections 4940(b)(2)(B) through 4940(b)(2)(J) provided by the commissioner and Section 4940(b)(2)(A) provided by the registrant.
 - (4) Samples shall be delivered to the testing laboratory within 24 hours of collection. ~~The testing laboratory shall document the chain of custody by signing the sample label upon receiving the sample. A copy of the signed chain of custody documentation shall be provided by the testing laboratory to the commissioner or designated sampler.~~

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
 Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4942 Approved Testing Method for Testing Industrial Hemp for THC Content Concentration

- (a) Sample Preparation.
 - (1) The laboratory shall maintain chain of custody upon receiving the samples by documenting the chain of custody information on the sample analysis request form. The laboratory shall provide the information outlined in Sections 4940(b)(2)(K) through 4940(b)(2)(M) on the sample analysis request form.
 - (2) Each composite sample shall be maintained and tested separately for THC content concentration.
 - (3) All parts of the plant included in the composite sample shall be processed and tested as a single sample. No plant parts shall be removed during the sample preparation and testing.

- (4) All parts of the plant included in the composite sample shall be dried until the weight of the composite sample remains constant after drying intervals. Drying temperature ~~shall~~ must not exceed 90 degrees Celsius. Dried composite samples shall be milled to a homogenous powder-like consistency and combined before analysis.
- (b) Suitable analytical instrumentation used to determine THC ~~content~~ concentration in industrial hemp includes the following:
- (1) Gas chromatography with flame ionization detector,
 - (2) Gas chromatography coupled with mass spectrometry,
 - (3) Liquid chromatography coupled with mass spectrometry, or
Liquid chromatography coupled with diode-array or variable wavelength ultraviolet detector.
- (c) ~~Analytical instrumentation used must be able to establish a validated limit of quantification (LOQ) of one-tenth of 1 percent or lower for total THC content.~~ “THC concentration” or “percentage concentration of THC” means the post-decarboxylated value of the percentage of delta-9 THC on a dry weight basis. The percentage concentration of THC may be measured by using either:
- (1) a suitable analytical instrumentation described in Section 4942(b) that results in the decarboxylation of THC-acid to delta-9 THC, or
 - (2) a calculated value using a conversion formula of the percentage concentration of delta-9 THC plus eighty-seven and seven tenths (87.7) percent of the percentage concentration of THC-acid when a suitable analytical instrumentation described in Section 4942(b) does not result in the decarboxylation of THC-acid to delta-9 THC.
- (d) Sample Retention.
- (1) If the laboratory test report indicates a percentage ~~content~~ concentration of THC that is equal to or less than three-tenths of ~~4~~ one percent, the laboratory shall retain the sample for a minimum of 30 calendar days from the testing date.
 - (2) If the laboratory test report indicates a percentage ~~content~~ concentration of THC that is greater than three-tenths of ~~4~~ one percent and does not exceed ~~4~~ one percent, the laboratory shall retain the sample for a minimum of 60 calendar days from the testing date.
 - (3) If the laboratory test report indicates a percentage ~~content~~ concentration of THC that exceeds ~~4~~ one percent, the laboratory shall retain the sample for a minimum of 90 calendar days from the testing date.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4943 Approved Laboratory for Testing Industrial Hemp for THC ~~Content~~ Concentration

- (a) Testing of industrial hemp for THC ~~content~~ concentration shall be conducted by a laboratory with International Organization for Standardization (ISO) / International Electrotechnical Commission (IEC) 17025 accreditation using a validated method in accordance with Sections 4942, 4944, and 4945 for total-THC analysis on plant material.
- (b) ~~The laboratory shall retain, and make available to the commissioner upon request, a copy of the ISO/IEC 17025 certificate of accreditation.~~ Beginning March 1, 2020, a laboratory shall obtain written approval from the Department in order to test industrial hemp for THC concentration. A laboratory shall submit a signed laboratory approval application with the following information to the Department for review and approval:
- (1) name and contact information of the applicant,
 - (2) name and physical address of the testing laboratory,

- (3) a copy of the testing laboratory's ISO/IEC 17025 certificate of accreditation, and
- (4) a copy of the testing laboratory's standard operating procedures for THC testing.
- (c) If the Department determines that the requirements outlined in this section are met and the laboratory's standard operating procedures for THC testing complies with the requirements outlined in Sections 4942, 4944 and 4945, the Department shall approve the laboratory to conduct THC testing on industrial hemp by issuing a proof of approval, and adding the testing laboratory to the list of approved testing laboratories. The Department will notify the laboratory in writing of any deficiencies when the laboratory is not approved.
- (d) Laboratory approval shall be valid for one year from date of approval by the Department, after which the laboratory shall renew the approval.
- (e) Laboratories shall request renewal of Department approval in accordance with the procedures outlined in Section 4943(b). Renewed approval shall be valid for one year from date of renewal by the Department.
- (f) Any changes to the approved laboratory's standard operating procedures shall be submitted to the Department for review and approval prior to implementation. Once the Department has determined that the requirements outlined in this section are met and the laboratory's standard operating procedures comply with testing requirements outlined in Sections 4942, 4944 and 4945, the Department shall notify the laboratory that testing may be completed under the revised standard operating procedures.
- (g) The Department shall make a template of a laboratory application and the list of approved testing laboratories available online on the Department's website.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
 Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4944 Notification of Laboratory Test Report

~~(a) Laboratories shall provide a laboratory test report to the registrant and commissioner within 10 days of the collection of samples. Laboratories shall issue a separate laboratory test report for each composite sample.~~

- ~~(1) If the laboratory test report indicates a percentage content of THC that is equal to or less than three tenths of 1 percent, the laboratory shall provide the registrant no fewer than 10 original copies with wet signatures and the commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory. The laboratory shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.~~
- ~~(2) If the laboratory test report indicates a percentage content of THC that exceeds three tenths of 1 percent, the laboratory shall provide both the registrant and commissioner one or more copies of the laboratory test report, signed by an employee authorized to sign by the laboratory.~~

~~(b) Laboratories shall issue a laboratory test report for each composite sample. The laboratory test report shall include the:~~

- ~~(1) registration number,~~
- ~~(2) unique sample identification number as assigned on the sample analysis request form,~~
- ~~(3) name and contact information of the registrant,~~
- ~~(4) name of the sampler,~~
- ~~(5) dates and times of the sample collection and testing,~~
- ~~(6) name of the cultivar tested,~~
- ~~(7) physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the field planting~~

- sampld,
- (8) name of approved analytical instrumentation used and the limit of quantification detection (LOQ LOD),
 - (9) name of the person ~~receiving~~ who received the sample,
 - (10) name of the person ~~testing~~ who tested the sample,
 - (11) percentage content concentration of THC, ~~a post-decarboxylation value or a calculated value using a conversion formula of delta-9 THC and eighty-seven and seven tenths (87.7) percent of THC acid, on a dry weight basis, in accordance with Section 4942,~~ and words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" or "FAILED AS CALIFORNIA INDUSTRIAL HEMP" at or near the top of page:
 - (A) ~~If~~ if the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of ~~4~~ one percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.
 - (B) ~~If~~ if the laboratory test report indicates a percentage content of THC that is greater than three-tenths of ~~4~~ one percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear.

(c) Laboratories shall provide an electronic copy of the laboratory test report to the registrant and commissioner concurrently within 10 calendar days of the collection of samples. Following the electronic notification of the laboratory test report, the laboratory shall:

- (1) ~~If the laboratory test report indicates a percentage content of THC that is equal to or less than three tenths of 1 percent, the laboratory shall provide the registrant no fewer than 10 ten original paper copies with wet signatures and the commissioner one or more copies of the a passing laboratory test report, signed by an employee authorized to sign by the laboratory. The laboratory shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.~~
 - (2) ~~If the laboratory test report indicates a percentage content of THC that exceeds three tenths of 1 percent, the laboratory shall provide both the registrant and commissioner one or more paper copies of the a failed laboratory test report, signed by an employee authorized to sign by the laboratory.~~
- (d) Upon request from the commissioner, the laboratory shall provide a copy of the completed sample analysis request form.
 - (e) The laboratory shall retain one or more original copies of each laboratory test report and the completed sample analysis request form for a minimum of three years from the date of sampling.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4945 Approved Testing Method for Retesting of Industrial Hemp for THC Content Concentration

- (a) If the first laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent ~~and but~~ does not exceed ~~4~~ one percent, additional samples for retesting shall be collected in accordance with the sampling procedures outlined in Section 4941 and tested in accordance with the testing procedures outlined in Sections 4942 through 4944.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4946 Final Disposition for Registered Industrial Hemp Crops

- (a) Registrants may harvest the sampled crop upon receipt of an electronic copy of a passing laboratory test report that indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent.
- (1) Registrants shall submit a harvest report to the commissioner within 72 hours following the completion of the harvest. The harvest report shall include the:
 - (A) -registration number,
 - (B) -name and contact information of the registrant,
 - (C) -date(s) of harvest,
 - (D) -name(s) of the cultivar(s) and ~~unique sample identification number(s),~~
 - (E) unique sample identification number(s) as assigned on the sample analysis request form and the percentage concentration of THC for each cultivar as reported on the laboratory test report,
 - ~~(E)-(F)~~ -physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage the harvested crop-planting, and
 - (G) description and quantity of the material harvested.
 - (2) The Department shall make a template of a harvest report form available online on the Department's website.
 - (3) Harvest must be completed within 30 calendar days from sampling. Registrants may request additional sampling and testing to extend the harvest timeframe.
 - (A) The most recent laboratory test report electronically received by the commissioner in compliance with Sections 4940 through 4945 shall be considered the effective THC concentration for the planting to be harvested and determining compliance with Division 24 of the Food and Agricultural Code.
 - (B) All previous laboratory test reports received for the same planting shall be invalid upon the commissioner's receipt of an electronic copy of the most recent of laboratory test report.
- ~~(2)~~(3) The commissioner may confirm the harvest of the crop by conducting field inspections.
- (b) Registrants shall destroy a crop that ~~does not comply with the three-tenths of 1 percent THC limit in accordance with the provisions of Section 4950~~ receives a failed laboratory test report within the following timeframes:
- (1) if a laboratory test report indicates a percentage ~~content~~ concentration of THC exceeds ~~1~~ one percent, the destruction shall begin within 48 hours, and be completed within seven calendar days, after the registrant's receipt of an electronic copy of the laboratory test report.
 - (2) if a second laboratory test report from retesting indicates a percentage ~~content~~ concentration of THC exceeds three-tenths of ~~1~~ one percent but is less than ~~1~~ one percent, the destruction shall take place as soon as practicable, but no later than 45 calendar days after the registrant's receipt of an electronic copy of the second laboratory test report.

Note: Authority cited: Sections 407 and 81006, Food and Agricultural Code
 Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

Article 3. Abatement and Enforcement

§ 4950 Destruction of Non-Compliant Industrial Hemp Crops

- (a) Any industrial hemp crop that does not meet the requirements of Division 24 of the Food and Agricultural Code and this chapter shall be destroyed in a manner approved by the commissioner:
- (1) Unless otherwise specified in 4946 (b), any non-compliant industrial hemp crop shall be destroyed as soon as practical, but destruction must be completed no later than 45 calendar days after the ~~registrant's~~ grower's receipt of notification of abatement from the commissioner.
- (b) The grower of the industrial hemp crop shall submit a signed destruction plan to the commissioner at least 24 hours prior to the start of the destruction, unless a shorter timeframe is allowed by the commissioner. The destruction plan shall include the:
- (1) ~~Registration~~ registration number, if applicable;
 - (2) ~~Name~~ name and contact information of the grower;
 - (3) ~~Anticipated~~ anticipated destruction date(s) of the crop to be destroyed;
 - (4) ~~Name~~ name(s) of the cultivar(s) to be destroyed, and ~~unique sample identification number(s)~~, if applicable;
 - (5) unique sample identification number(s) as assigned on the sample analysis request form and percentage concentration of THC for each cultivar as reported on the laboratory test report, if applicable.
 - ~~(5)~~ (6) ~~Physical~~ physical address, Global Positioning System coordinates, general description of the planting location, and total acreage or square footage of the ~~crop~~ planting to be destroyed; and
 - ~~(6)~~ (7) ~~Proposed~~ proposed destruction method.
- (c) The proposed crop destruction method shall be approved in writing by the commissioner prior to the start of the destruction.
- (d) The grower shall submit a signed destruction report to the commissioner within 72 hours following the completion of the destruction. The destruction report shall include the:
- (1) registration number, if applicable.
 - (2) name and contact information of the grower.
 - (3) date(s) and time(s) of destruction.
 - (4) name of the cultivar(s) destroyed.
 - (5) unique sample identification number(s) and percentage concentration of THC for each cultivar as reported on the laboratory test report, if applicable.
 - (6) physical address, Global Positioning System coordinates, general description of the planting location, and total square footage or acreage of the destroyed planting, and
 - (7) description and quantity of the material destroyed.
- ~~(d)~~ (e) The commissioner shall confirm the destruction of the crop by conducting field inspections.
- (f) The Department shall make a template of a destruction plan and destruction report available online on the Department's website.

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Sections ~~81000~~, 81006, Food and Agricultural Code

§ 4950.1 Voluntary Destruction of Industrial Hemp Crops

- (a) Any industrial hemp grower that wishes to voluntarily destroy a crop shall do so in a manner approved by the commissioner in accordance with the procedures outlined in Sections 4950(b) through 4950(e).
- ~~(b)~~ The grower of the industrial hemp crop shall submit a destruction plan to the commissioner at least 24 hours prior to the start of the destruction. The destruction plan shall include the:

- ~~(1) Registration number, if applicable;~~
 - ~~(2) Name and contact information of the grower;~~
 - ~~(3) Anticipated destruction date(s) of the crop to be destroyed;~~
 - ~~(4) Name of the cultivar(s) and unique sample identification number(s), if applicable;~~
 - ~~(5) Physical address, Global Positioning System coordinates, general description of the location, and acreage of the crop to be destroyed; and~~
 - ~~(6) Proposed destruction method.~~
- ~~(c) The proposed crop destruction method shall be approved by the commissioner prior to the start of the destruction.~~
- ~~(d) The commissioner shall confirm the destruction of the crop by conducting inspections.~~

Note: Authority cited: Sections 407, 81003, 81004, and 81006, Food and Agricultural Code
Reference: Sections ~~81000~~, 81006, Food and Agricultural Code